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COMMUNICATION FROM THE UNITED STATES

Advertising and Related Services

The attached communication has been received from the delegation of the United States with the request that it be circulated to Members of the Council for Trade in Services.

I. SUMMARY

1. The following proposal on advertising services is submitted by the United States for Members' consideration. Advertising services, which touch upon virtually all industries and affect virtually every possible good and service available today, are a significant economic force, both locally and globally. This proposal is intended to initiate a dialogue on the importance of continued liberalization of the advertising services sector and offers a framework for negotiation in the WTO.

II. ADVERTISING SECTORAL COVERAGE

2. Advertising services can be defined as those services provided in connection with the creation, planning, placement (including buying and selling), and distribution of advertisements via various communications platforms. In its simplest form, advertising may be defined as a commercial communication from an identified sponsor utilizing various distribution platforms to connect with an audience. Advertising can assume many different forms, whether brand advertising, corporate advertising, or business-to-business advertising. Advertisements are distributed across a wide spectrum of communication platforms, including newspapers, magazines, radio, TV, cable, satellite, the Internet, billboards, transportation displays, and circulars.

3. The creation of every advertisement incorporates the time and talent of many different entities. These entities may include advertising agencies, marketing experts, consumer research analysts, copywriters, film producers, computer animators, printers, typesetters, graphic designers, website designers and programmers, art directors, carpenters, and hair stylists, among others. Once an advertisement is created, the placement of the ad on a communications platform incorporates the talents of additional forces, which include media research analysts, media specialists, planners and buyers, sales personnel, lawyers, self-regulatory bodies, broadcast/clearance standards professionals, broadcast co-ordinators, talent managers and traffic analysts.

4. The purchase and sale of advertising space or time permits virtually all businesses to provide information to their customers and potential customers. Without the ability to distribute advertisements across a broad range of communications platforms, advertisements produced could not reach their intended audience. The purchase and sale of advertising time and space are therefore an integral part of all advertising services.

III. IMPORTANCE OF ADVERTISING SERVICES TO OTHER BUSINESS SECTORS LOCALLY AND GLOBALLY

5. As a sector that includes a broad range of services activities, and at the same time serves as an input to the marketing of virtually every good and service, advertising is a powerful catalyst for economic growth, promoting the entry of new firms, new goods, and new services. Advertising helps to launch new goods and services, provide consumer information, and further competition, thereby lowering consumer prices. When advertising stops, consumer information is restricted, and the ability to introduce new and improved goods and services is impeded. Marketplace prices increase and competitive market shares freeze.

6. Advertising revenues contribute significantly to the foundation and financial support of a free press, significantly offsetting the cost of newspapers, magazines, cable, satellite and broadcast services. In many countries, for example, advertising completely underwrites radio and television broadcast programming. These media, along with the Internet, could not exist at no or reduced cost to consumers without the support of advertising. Advertising is also an important source of information for consumers. Without advertising, how would consumers know about insurance rate reduction opportunities or discounts for product purchases? How would consumers enjoy the broad choice of specialty magazines providing information on hobbies, fashion, sports, world events, and a host of other topics?

7. Underlining the scale of advertising's importance is the size of the expenditures on advertising. Total world advertising expenditure in measured media projected for 2001 is \$481.1 billion or an increase of 3.7% growth from the 2000 level. Added to this is an estimated \$721.5 billion in non-measured media, for a global total of \$1,202 trillion.

IV. PUBLIC POLICY AND CONSUMER PROTECTION

8. In scheduling GATS market access and national treatment commitments in this sector, governments retain the ability to set and maintain high standards of consumer protection. Many countries have found, however, that as a complement to laws and regulations prohibiting misleading or deceptive advertising, high standards of business conduct established through self-regulatory guidelines and voluntary industry norms also foster consumer confidence and promote truth and accuracy in advertising. For example, at present, in 58 countries, the International Chamber of Commerce (ICC) plays a leading role in promoting high standards of consumer protection. The ICC Code of Advertising Practice addresses issues such as compliance with prevailing standards of decency, honesty, truthful presentation, use of comparisons, testimonials and endorsements, denigration, protection of privacy, exploitation of goodwill, imitation, and safety.

V. DIFFERENCES IN THE ADVERTISING SECTOR: PRE- AND POST-URUGUAY ROUND

9. The advertising industry has evolved significantly since completion of the Uruguay Round of trade negotiations because of technological advancements, innovative marketing techniques, and the expanding use of new media outlets, such as pay TV and the Internet, as commercial communications vehicles. In addition, advertisers, advertising agencies, and media companies have changed their business models and now seek to maintain their competitiveness by expanding globally, through both growth and consolidation, to offer new services and value to their customers.

10. Of all these changes, one of the most fundamental has been the advent of the Internet. The Internet has essentially changed the way people interact with the world around them, creating countless opportunities for marketers. At its essence, marketing is about excelling at identifying and meeting consumer requirements. The Internet, which provides consumers a great deal of choice in

when and where to shop, makes it even more imperative for marketers to fully understand and meet the needs of an increasingly discerning consumer.

11. Another facet of the evolution of the advertising sector is the development of the global advertising market. Technology has helped to make the global marketplace accessible to consumers all over the world. Most newspapers and magazines have local or national circulation, so these media have traditionally sold space to advertisers in a local or national market. Their appearance outside those local or national markets was usually only the result of a business traveller or tourist taking a copy with them. With the spread of multi-channel television delivered to consumers by satellite or cable, programming channels can sell ad time to allow advertisers to reach consumers in many countries with a single advertising spot. The Internet further expands the reach of advertisers, providing consumers the possibility of visiting virtually any seller of goods or services through their websites almost anywhere in the world.

VI. GATS ADVERTISING SERVICES CLASSIFICATION AND WTO MEMBER COMMITMENTS

12. Advertising Services are listed in the Services Sectoral Classification List (document MTN.GNS/W/120), which has been used for scheduling purposes under the GATS, as a sub-category of “Other Business Services.” The activities covered are referenced and defined in the UN provisional Central Product Classification Code (CPC) as Group 871. This group is divided into the following classes:

- 8711 – Sale or leasing services of advertising space or time
- 8712 – Planning, creating and placement services of advertising
- 8719 – Other advertising services

13. Fifty-one WTO Members (23 developed economies; 28 developing and transition economies) made commitments in advertising services, counting the European Communities and its Member States as one. Most commitments cover the sector in full and do not exempt any specific market segments. Of those that do not have full commitments, fourteen Members scheduled market access and/or national treatment limitations under Modes 1, 2 or 3. Eight have limitations, mostly in the form of non-bindings that relate to cross-border trade or consumption abroad. Eight also have limitations that relate to commercial presence.

14. Of the remaining WTO members, some countries either are “unbound” for advertising services (meaning they reserve the right to impose restrictions) or did not list advertising services at all and therefore have no market access or national treatment obligations in the sector.

VII. CURRENT IMPEDIMENTS TO ADVERTISING GLOBALLY

15. Government restrictions on the distribution and placement of foreign advertising services can diminish the quality of advertising materials overseas, delay the introduction of a company’s commercial message to the market, and consequently hinder the introduction of new goods or services to that market. These restrictions may place many foreign advertising services providers at a competitive disadvantage vis-à-vis domestic firms. Such restrictions cost advertising companies millions of dollars a year.

Market Access and National Treatment

16. Advertisers around the world often face numerous barriers to create and distribute specific advertisements (live or animated) or launch global advertising campaigns. These difficulties force advertisers to create multiple versions of the same advertisement or to decide not to place an

advertisement in the restricted market, thereby depriving the consumer of product information and competitive pricing. Among the specific impediments that advertisers encounter worldwide are:

1. Restrictions on the importation and broadcast of foreign-produced television commercials.
2. Residency requirements for advertising production professionals filming in some countries and/or for employees of the advertising firm.
3. Requirements for local participation in the production of advertising transmitted through an electronic medium.
4. Requirements for local post production work (e.g. editing, music, sequence editing) if foreign actors are used in television commercials.
5. Equity limitations on foreign ownership of advertising firms.
6. Requirements that host-country nationals hold managerial positions in foreign-owned advertising firms.
7. Requirements that program services carried by cable or satellite be "local" in order to carry certain advertising.

VIII. NEGOTIATING PROPOSAL FOR THE ADVERTISING SECTOR

17. All WTO Members should make and/or improve GATS commitments in Advertising Services permitting full market access and national treatment.
